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| APPLICATION NO. | FII | LING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO |
|--------------------------------|------------|----------------|--------------------------|---------------------|-----------------|
| 10/721,525 | 11/25/2003 | | David W. Boykin | 421/60/21/2 | 5332 |
| 25297 | 7590 | 03/16/2006 | | EXAMINER | |
| JENKINS, V 3100 TOWE | | & TAYLOR, P. A | DAVIS, ZINNA NORTHINGTON | | |
| SUITE 1200 DURHAM, NC 27707 | | | | ART UNIT | PAPER NUMBER |
| | | | | 1625 | |

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | Application No. | Applicant(s) | | | |
|---|---|-------------------------|---------------|--|--|--|
| | Office Action Commence | 10/721,525 | BOYKIN ET AL. | | | |
| | Office Action Summary | Examiner | Art Unit | | | |
| | | Zinna Northington Davis | 1625 | | | |
| The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply | | | | | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status | | | | | | |
| 1) | Responsive to communication(s) filed on | <u> </u> | | | | |
| 2a)□ | This action is FINAL . 2b)⊠ Thi | is action is non-final. | | | | |
| | closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. | | | | | |
| Disposition of Claims | | | | | | |
| | 4)⊠ Claim(s) <u>1-11</u> is/are pending in the application. | | | | | |
| 4a) Of the above claim(s) is/are withdrawn from consideration. | | | | | | |
| 5) Claim(s) is/are allowed. | | | | | | |
| 6)⊠ Claim(s) <u>1,4,5,8 and 9</u> is/are rejected. | | | | | | |
| · | laim(s) <u>2,3,6,7,10 and 11</u> is/are objected to. | | | | | |
| 8) Claim(s) are subject to restriction and/or election requirement. Application Papers | | | | | | |
| 9)☐ The specification is objected to by the Examiner. | | | | | | |
| 10) The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. | | | | | | |
| Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). | | | | | | |
| 11) The proposed drawing correction filed on is: a) □ approved b) □ disapproved by the Examiner. | | | | | | |
| If approved, corrected drawings are required in reply to this Office action. | | | | | | |
| 12) The oath or declaration is objected to by the Examiner. | | | | | | |
| Priority under 35 U.S.C. §§ 119 and 120 | | | | | | |
| .13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). | | | | | | |
| a) ☐ All b) ☐ Some * c) ☐ None of: | | | | | | |
| 1 | 1. Certified copies of the priority documents have been received. | | | | | |
| 2 | 2. Certified copies of the priority documents have been received in Application No | | | | | |
| 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. | | | | | | |
| 14) △ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). | | | | | | |
| a) The translation of the foreign language provisional application has been received. | | | | | | |
| 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) | | | | | | |
| 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s) | | | | | | |
| 1) | | | | | | |

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DETAILED ACTION

- 1. Claims 1-11 are pending.
- 2. On February 9, 2006, Applicants have elected the compound of example 5, as the preferred species.
- 3. Based upon the search of the elected species, the species requirement is withdrawn. The claims have been examined as a whole.
- 4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 5. Claims 1, 4, 5, and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by University of North Carolina at Chapel Hill, (WO 01/03685, Reference O).

The instantly claimed compounds are disclosed. At page 3, see the compound of formula (I).

6. Claims 1, 4, and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by University of North Carolina at Chapel Hill (WO 00/04893, Reference N).

The instantly claimed compounds are disclosed. At page 26, Table 2, see the compound DB 75. At page 27, Table 2, see compounds DB 181, DB 244, DB 351, and DB 262.

7. Claims 1,4, 5, 8, and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Stephens et al (cited by Applicants).

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The instantly claimed compounds are disclosed. At page 1743, Table 1, see the compounds.

8. Claims 2, 3, 6, 7, 10, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The Information Disclosure Statements filed June 29, 2004, August 2, 2004, and February 7, 2005 have considered.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna Northington Davis whose telephone number is 571-272-0682.

11. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Zinna Northington Davis
Primary Examiner
Art Unit 1625